

In the United States District Court
For the Northern District Of Illinois
Eastern Division

David Morales,

Plaintiff,

v.

Mangia Fresca, Inc., and Paul
Impallaria,

Defendants.

15-cv-05989

Judge John J. Tharp, Jr.

Magistrate Judge Susan E. Cox

Defendants' Motion for Approval of Settlement Agreement

Defendants submit pursuant to Fed.R.Civ.P. 41(a)(2) their Motion for Approval of Settlement Agreement, which plaintiffs do not oppose:

1. On July 8, 2015, plaintiff filed his Complaint against Mangia Fresca for overtime compensation under the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201, *et seq.*, Illinois Minimum Wage Law (IMWL), 820 ILCS 105/1 *et seq.*, and Illinois Wage Payment and Collection Act (IWPCA), 820 ILCS 115/1 *et seq.* (Doc. 1.)

2. The FLSA claim (Count I) is brought on behalf of plaintiff and all other persons similarly situated, known and unknown. The IMWL and IWPCA claims, which are respectively Counts II and III, are brought individually against both defendants.

3. While one opt-in,¹ Israel Perez, filed a consent to join as a plaintiff on the FLSA claim (Doc. 22), no motion has been submitted or order entered to conditionally certify the claim as a collective action.

4. On September 18, 2015, defendants filed their Answer to the Complaint. (Doc. 18.) In their Answer, defendants deny plaintiff was entitled to overtime, and therefore denied he

¹ Morales also filed his opt-in consent with his Complaint.

was owed back wages, and alleged the affirmative defense that plaintiff managed Mangia Fresca's operations and therefore was an exempt executive (or, alternatively, an administrative) employee.

5. While defendants deny plaintiff is entitled to overtime compensation, they have offered—solely for purposes of minimizing litigation expense—to pay him the full amount of overtime he claims, as well as his attorneys' fees and court costs, which plaintiff has accepted.

6. Defendants dispute the amount of overtime claimed by the opt-in plaintiff, Perez, but have agreed to pay him the full amount of overtime compensation he claims. No additional attorneys' fees and court costs will be sought in connection with the opt-in plaintiff. The opt-in plaintiff has accepted that offer.

7. The parties have signed a written, confidential Settlement Agreement ("the Agreement"). Because the Agreement is confidential, defendants request the Court to review it *in camera*.

8. The parties and their respective counsel believe the Agreement is a fair and reasonable settlement of a bona fide dispute under the FLSA (and under the IMWL and IWPCA), since it provides for full payment of overtime compensation that is disputed both as to entitlement and amount.

Therefore, defendants request that the Court grant this Motion for Approval of Settlement Agreement and enter the proposed Order Approving Settlement and Dismissing Case, which is attached as Exhibit A.

Mangia Fresca, Inc. and Paul Impallaria

By: s/Arthur Sternberg
One of Their Attorneys

Arthur Sternberg
Michael Duffee
Thompson Coburn LLP
55 E. Monroe, 37th Floor
Chicago, IL 60603
(312) 580-2235